

## **REMARKS/ARGUMENTS**

Applicant responds herein to the Office Action dated February 9, 2006.

Claims 1, 5, 7 and 15 are amended. The Amendments to these claims are for clarification purposes only. Claim 1 has been amended to include the symbol " $\pi$ ". This symbol was part of the originally filed application but was inadvertently removed in a previously filed Preliminary Amendment. As such, the scope of currently pending claim 1 is co-extensive with that as filed pursuant to the Patent Cooperation Treaty. Claim 7 is amended to include the limitations of claim 1 – such limitations were already present in the claim before amendment. Claims 1-15 are pending.

Claims 5, 6 and 15 are objected to as including informalities. Claims 5 and 15 are amended in light of the remarks in the Office Action. Reconsideration of the objection to claims 5, 6 and 15 is respectfully requested.

Claims 1-8 and 12 are rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 6,400,664 to Shimano ("Shimano") in view of U.S. Patent No. 6,501,601 to Takasuka et al. ("Takasuka").

Claims 9-11 and 13-15 are rejected under 35 U.S.C. §103 as being unpatentable over Shimano in view of Takasuka and further in view of U.S. Patent No. 6,088,315 to Ando ("Ando"). Reconsideration of the application in light of the remarks below is respectfully requested.

Among the limitations of independents claim 1 and 7 which are neither disclosed nor suggested even in the combination of the art of record are:

“wherein a phase of the grating in said first region and said second region located diagonally with respect to said first region is different from a phase of the grating in said third region and said fourth region that are adjacent to said first and second regions and are located diagonally by substantially  $\pi$ ....”

The Office Action agrees that this limitation is not shown in the Shimano reference and points to Takasuka as showing this limitation. See, Office Action, pages 3-4. Specifically, the Office Action points to FIG. 3B and first grating region 8 as corresponding to the above referenced limitations of claims 1 and 7. This section in column 6 of Takasuka recites:

“Moreover, the first grating region 8 also can be composed of a plurality of regions with diffraction gratings having different grating directions as shown in FIG. 3B.” Takasuka, column 6, lines 49-51. (emphasis added)

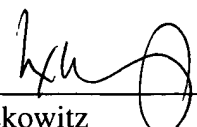
Takasuka therefore discloses diffraction gratings having different grating directions - and not diffraction gratings having different phases as is claimed. Moreover, to make the scope of claims 1 and 7 to be coextensive with that as originally filed, claims 1 and 7 are currently amended to indicate that the phase difference between these gratings is substantially  $\pi$ . Clearly, there is no discussion of such phase difference in the Takasuka reference. As such, it is asserted that independent claims 1 and 7 are patentable over even a combination of Shimano and Takasuka. The Ando reference is not cited to show, and does not appear to show, the above referenced limitations of independent claims 1 and 7. As such, it is asserted that independent claims 1 and 7 are patentable over the Ando reference as well. Dependent claims 2-6 and 8-15 include the above referenced limitations of independent claim 1, and include additional recitations which, when combined with the limitations of independent claim 1, are also neither disclosed nor suggested even in a combination of the art of record. It is asserted that these claims are patentable as well. Reconsideration of the rejection of claims 1-15 under 35 U.S.C. §103 is respectfully requested in light of the remarks above.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on April 11, 2006:

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Name of applicant, assignee or  
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Signature  
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April 11, 2006  
Date of Signature

Respectfully submitted,

  
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